

June 16, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**
400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L03P0008**
Proposed Ordinance No. **2004-0077**

KILLARNEY VUE ESTATES
Preliminary Plat Application

Location: East of 28th Avenue South, approximately 100 feet south of
South 353rd Street

Applicant: **Alex White**
22030 – 7th Avenue South, #204
Des Moines, Washington 98198
Telephone: (206) 824-1100

King County: Department of Development and Environmental Services
represented by **Fereshteh Dehkordi**, Land Use Services Division
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7173
Facsimile: (206) 296-6613

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:

Approve, subject to conditions

Department's Final Recommendation:

Approve, subject to conditions

Examiner's Decision:

Approve, subject to conditions

EXAMINER PROCEEDINGS:

Hearing Opened:

June 8, 2004

Hearing Closed:

June 8, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Belenky Property LLC
Attn: Alex White
22030 7th Avenue South # 204
Des Moines., WA 98198

Engineer: Leonard Gantz
3721 South 352nd Street
Auburn, WA 98001

STR: NE ¼ 28-21-04

Location: The site is located east of the intersection 28th Avenue South and South 353rd Place Street.

Zoning: R-4 (4 du/acre)
Acreage: 3.6
Number of Lots: 11 lots
Density: 3 du/acre
Proposed Use: Single Family
Sewage Disposal: Lakehaven Utility District
Water Supply: Lakehaven Utility District
Fire District: Federal Way Fire District No. 39
School District: Federal Way School District No. 210

Complete Application Date: May 13, 2003

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the June 8, 2004, public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.
3. Belenky Property, LLC, has filed a preliminary plat application to subdivide 3.6 acres into 11 residential lots for single-family development. The property is located on the west side of Lake Killarney in an area that is just beginning to ~~experience conversion~~ convert to more dense urban development. ~~Intensive u~~Urban residential development has already occurred on the west side of 28th Avenue South, but the rural residential and recreational lots long ago platted on the east side of the Avenue are only now just beginning to ~~experienc~~ing a transition to higher densities. The traditional recreational properties that lie ~~just~~ north of the proposed plat are comprised of long narrow lots, typically only 40 or 50 feet wide but 900 or more feet long, which ~~as they~~ extend

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eastward ~~into~~ the lake shore. The Killarney Vue Estates property is itself the consequence of a boundary line adjustment on four of these long narrow lots, ~~wherein~~ with the existing residential development ~~is now focused-concentrated~~ on three small lots along the lake shore. ~~T-and~~ the western extensions of the previous lots have been consolidated into a single larger lot for replatting. Except for the eastern half of the proposed drainage and recreation tract and a ~~proposed~~ drainage outfall to the lake, all of Killarney Vue Estates lies at least 200 feet westward of the lake's ordinary high-water mark and therefore beyond Shoreline Management Act jurisdiction. The County has issued a shoreline ~~extension-exception~~ for the ~~proposed~~ outfall, and no ~~proposed~~ permanent drainage or recreational developments ~~is~~ are proposed for the eastern portion of tract B.

4. A mitigated determination of non-significance was issued by King County DDES on February 6, 2004, for the Killarney Vue Estates application. The MDNS requires a split-rail wooden fence to be constructed along the edge of ~~the~~ wetland tract ~~along~~ the southern plat boundary, installation of a cage-type overflow structure at the intake end of an existing downstream ~~stub~~-culvert to mitigate for debris blockage, and ~~for~~ construction of a five-foot wide paved walkway between the southwest corner of the plat and ~~the-an~~ elementary school to the south. A timely appeal of the MDNS was filed by the City of Federal Way, and a petition to intervene in the SEPA appeal was submitted by neighborhood resident Kristin Jones on behalf of the Lake Killarney Improvement Association.
5. At a pre-hearing conference held on March 30, 2004, the petition to intervene filed by Ms. Jones was denied as ~~an~~-inappropriate ~~request~~ in a proceeding for which an adequate appeal right exists, ~~ed~~ and a process ~~of-for~~ narrowing down the issues raised within the City's very broad appeal statement was commenced. The pre-hearing order issued April 1, 2004, provided the City with an opportunity to file a bill of particulars more clearly specifying its appeal issues and ~~provided-allowed~~ the Applicant ~~an-opportunity~~ to challenge the legal sufficiency of the City's appeal statement. An order on motions issued by the Hearing Examiner on May 5, 2004, ~~considerable-narrowed~~ limited the SEPA appeal issues, and on May 21, 2004, the City of Federal Way withdrew its SEPA appeal in its entirety. Accordingly, the public hearing held on this application on June 8, 2004, was ~~entirely-only~~ devoted to the consideration of plat issues.
6. Killarney Vue Estates is the smallest of three preliminary plat applications currently in process located in the neighborhood east of 28th Avenue South and north of South 360th Street. In many ways the intense reaction to ~~theis small~~ proposal demonstrated by the application record is reflective of the totality of simultaneous development being proposed in this neighborhood, as well as ~~and~~ the fact that these three plat proposals represent an initial step in the conversion of the neighborhood east of 28th Avenue South to more urban densities. It of course may be argued that the R-4 densities provided by the current zoning are inappropriate for the Lake Killarney neighborhood, but that is a political question beyond the scope of this administrative review. The Applicant is legally entitled to have its proposal reviewed under the zoning regulations currently in effect. In like manner, the possibility that the City of Federal Way may in the future apply more restrictive development standards in this area ~~onceafter~~ it is annexed ~~to the City~~ is of no immediate regulatory consequence unless the City negotiates an interlocal agreement with King County for application of its standards in the potential annexation area.
7. There is no serious dispute that the additional 84 lots to be created within Killarney Vue,

Creekside Lane and Swan ~~s~~Song, plus construction of a new middle school nearby, will require upgrades to 28th Avenue South and level-of-service improvements at the intersection of 28th Avenue South/South 360th Street. At 11 lots, however, Killarney Vue Estates will not generate enough new traffic to trigger a resultant mitigation requirement at the 28th Avenue South/South 360th Street intersection. It is anticipated, on the other hand, that a southbound right turn lane on 28th Avenue South at the intersection ~~will be may become~~ a mitigation requirement imposed on the other two plats.

8. All observers agree that both 28th Avenue South and South 360th Street in their current condition do not provide safe walking conditions for students from Killarney Vue Estates who will walk to ~~the~~ Lakeland Elementary School. Creekside Lane, proposed for the northeast corner of the 28th Avenue South/South 360th Street intersection, will be required to provide urban frontage improvements including sidewalks along its portion of the roadway. The SEPA MDNS condition requires Killarney Vue Estates to provide a five-foot paved walkway with a protective extruded curb within the approximately 1000-foot depth gap that lies between the southwest corner of Killarney Vue and the northwest corner of Creekside Lane. This obviously is not an optimal permanent solution but certainly is adequate mitigation in view of the level of Killarney Vue's contribution to pedestrian impacts. A December 8, 2003, letter from the Federal Way School District contains the following misleading ~~statement~~non sequitur:

“The most recent Federal Way School District capital facilities plan indicates a student yield of .5988 from single-family housing. This development could add 23 to 24 new students.”

Multiplication of the District student yield factor times 11 lots shows Killarney Vue adding slightly less than 7 students, ~~and~~ only half of ~~those which~~ would likely be of elementary school age. The Applicant's willingness to provide 1000 feet of offsite walkway for three or four elementary school students is a generous level of mitigation for this level of impact. As noted at the public hearing, the Applicant also has the option of negotiating an agreement with the school district for a school bus pullout at the plat entrance in lieu of walkway development.

9. ~~In like manner,~~ The Applicant's willingness to contribute to the replacement of the intake structure downstream at approximately South 363rd Street and 26th Avenue South is an equally generous gesture. Flows from the eleven lots of Killarney Vue Estates will be piped east to Lake Killarney, which in turn has an outlet near its south end ~~from over~~ which plat flows will travel ~~more than approximately~~ a mile to the constriction location. ~~Moreover,~~ it is ~~abundantly~~ clear from the Applicant's level-one drainage analysis that the ~~debris~~ problem at the intake structure does not result from lack of capacity, but rather from the unfortunate habit of nearby residents ~~in of~~ dumping yard waste ~~at onto~~ the culvert ~~entry opening~~. So, not only does Killarney Vue Estates contribute ~~almost no little~~ measurable flow to this location, but the problem that it ~~is has~~ consented-willing to correct is caused by the misbehavior of other people.
10. A number of Lake Killarney residents have expressed concern about water quality impacts from plat drainage. The testimony of Kate Rhoades, ~~s~~Senior ~~W~~ater ~~Q~~uality ~~S~~pecialist with the Water and Land Resources Division, was to the effect that the water quality in Lake Killarney over the last few years has been stable and ~~that~~ no appreciable benefit would result from requiring the Applicant to perform more than basic water quality treatment. Ms. Rhoades

| testified that the key to maintaining water quality in Lake Killarney lies with controlling
| pollutant generation ~~more~~rather than imposing extraordinary treatment ~~measures~~requirements. In
| view of the historic development patterns along the lake, one may surmise that the long-
| ~~range~~term viability of lake water quality will likely depend primarily on a regime of replacing
| existing septic systems.

11. Finally, at the public hearing some residents ~~raised~~ questioned whether construction noise and dust, and post-construction light and noise ~~were~~ will be adequately controlled. While some construction impacts are inevitable, this is a small project and possesses no characteristics that would make it intrinsically ~~more~~ likely to produce unacceptable construction ~~period~~ impacts ~~than any other housing project~~. That being said, County noise control ordinance requirements must be met and site inspectors ~~should~~ may be contacted if noise or dust violations occur. Light, traffic and density impacts to properties south of the plat will be mitigated to some degree by the retention of 0.7 acres of wetland and buffer along the plat's southern boundary. Light and noise impacts from plat traffic ~~after development~~ on properties across the lake along ~~the~~ its eastern shore ~~of the lake~~ will be reduced and mitigated by ~~an~~ the approximately 300-foot width of existing development, including three houses and two garages, that ~~lie~~ will remain between the proposed plat cul-de-sac bulb and the shoreline, as well as another ~~plus~~ approximately 500 ~~further~~ feet ~~over~~ of open water.

CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat application for Killarney Vue Estates, as revised and received on December 22, 2003, is APPROVED subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density (and minimum density) requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services. The easement to be granted to owners of Tax Lot 1 directly north of the proposed lot 7 shall be shown and incorporated as part of the Lot 7 legal description and be shown on the recorded plat.

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4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The ~~a~~Applicant must obtain the approval of the King County Fire Protection Engineer ~~for certifying~~ the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.

~~If all lots are 35,000 square feet in size or more, or if the subdivision is outside an Urban Growth Area and is developed at a density no greater than one residential building lot per five (5) acres, or a cluster development outside an Urban Growth Area with lots under 35,000 square feet in size and offsetting permanent open space and is developed at a density no greater than one residential building lot per five (5) acres, the subdivision is exempt per KCC 17.08.030.~~
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. The stormwater detention facility shall be designed at a minimum to the Level 1 Flow Control and Basic Water Quality menus per the 1998 King County Surface Water Design Manual (KCSWDM) and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - ~~7~~ ~~_____~~ b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 - d. The 100-year floodplain for any onsite wetlands or streams shall be shown on the engineering plans and the final recorded plat per the 1998 King County Surface Water Design Manual (KCSWDM).

The following ~~condition has~~ have been established ~~by~~ under SEPA authority as necessary requirements to mitigate the adverse environmental impacts of this development. The ~~a~~ Applicants shall demonstrate compliance with these items prior to final approval.

- e. A frequent drainage problem off site has been identified. This drainage problem at approximately Station 37+10 in the Level 1 Offsite Analysis is located at approximately South 363rd Street and 26th Avenue South on the east side of 26th Ave South. The drainage from the proposed plat will follow the downstream drainage path to this location and will contribute to the existing problem at this location. To mitigate this, improvement to the flow structure at this location is required. This can be achieved ~~th~~ through the development of this plat or in conjunction with other proposed development in the area (Creekside Lane L03P0023 & Swan Song, L03P0030).

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The existing overflow structure shall be replaced by a "cage type" overflow structure at the end of an existing stub culvert where the problem exists. An example of the "cage type" overflow is shown in Figure 5.3.1.C in the 1998 KCSWDM.

7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS), including the following requirements:

- a. FRONTAGE: 28th Avenue South shall be improved to the urban collector arterial standard with concrete curbs, gutters and a 5-foot wide sidewalk, 22-feet of paving providing: ½ the width of the future center turn lane, a 12-foot wide northbound travel lane, and a 5-foot wide bike lane abutting the curb, as measured from the right-of-way centerline.
- b. South 353rd Street shall be improved to the urban minor access street standard with concrete curbs, gutters and a 5-foot wide sidewalk, a minimum of 22-feet of paving. Note: ~~t~~The Applicant has proposed to improve to the urban subaccess street standard (24 feet), with concrete curbs and gutters and sidewalks on both sides of the plat street.
- c. Tract C shall be improved to the private access tract standard per Section 2.09 of the KCRS. This tract shall be owned and maintained by the owners of the lots served. Notes to this effect shall be shown on the final recorded plat.

The following mitigation measures have been established under SEPA authority as necessary requirements to mitigate the adverse environmental impacts of this development. The Applicants shall demonstrate compliance with these items prior to final approval.

- d. To provide a safe walkway for school-age pedestrians attending the Lakeland Elementary School (located at the northwest corner of 32nd Avenue So./South 360th Street), the Applicant shall provide a minimum five (5) foot wide paved walkway from the site to the school site. The width of the shoulder shall be measured from the center of the existing fog/edge line along those roadways.

If construction of all or a portion of the urban frontage improvements for the plat of Creekside Lane (KC File L03P0023) precedes the construction of improvements of the proposed plat of Killarney Vue then, the Applicant shall instead provide the walkway from his site to either the intersection of South 360th Street, or, the northerly end of the Creekside Lane frontage improvements for 28th Avenue South. These off-site walkway improvements shall widen the roadway, as necessary, to provide a minimum five (5) foot wide paved walkway as measured from the center of the existing fog/edge line. (RCW 58.17.110)

These off-site improvements will not be required if the school district decides in its future plan to provide bus pick up location at the plat entrance or any other location in the vicinity of the site and transport the elementary school kids to and from school by bus. If the pick up location is not at the plat entrance, then a safe pedestrian walkway from the site to the bus pick up location shall be provided.

e. To implement the SEPA condition above, the Applicant shall submit detailed engineering plans for the required walkway and other directly-related roadway work for review and approval by King County DOT and King County DDES. This walkway requirement should include an extruded curb or other curbing approved by the County between the walkway and the edge of the traveled way on South 360th Street and 28th Avenue South. If required, and if the proposed improvements incorporate construction of the walkway on the north side of South 360th Street, or if preceding the construction of the frontage improvements for the proposed plat of Creekside Lane (L03P0023) to this may also include a modification to the guardrail system along the northern margin of South 360th Street, east of the 28th Avenue South intersection.

8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
9. The ~~a~~A applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The ~~a~~A applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

11. There shall be no direct vehicular access to or from 28th Avenue South -from those lots which abut it. A note to this effect shall be placed on the engineering plans and final plat.
12. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in KCC 21A.24. Permanent survey marking- and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.

Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the applicant.

Wetland

- a. The on-site Class 2 wetland shall have a minimum 50-foot buffer of undisturbed vegetation as measured from the wetland edge.
- b. The off-site wetland (Hylebos Creek #15, Lake Killarney) has been updated to a Class one wetland and shall have a 100-foot buffer as measured from the wetland edge. The plat as proposed is currently more than 100 feet from Hylebos Creek wetland #15 and ~~is~~ not encumbered by this requirement.
- c. Sensitive ~~a~~Area Tract(s) shall be used to delineate and protect sensitive areas and buffers in development proposals for subdivisions and shall be recorded on all documents of title of record for all affected lots.
- d. A 15-foot BSBL shall be established from the edge of buffer and/or the sensitive areas Tract(s) and shown on all affected lots.
- e. A mitigation plan and financial guarantee/bond will be required for any proposed impacts to the sensitive areas. The bond amount will include all components of the mitigation plan including, but not limited to, plantings, grading, fencing, signs, inspections, and monitoring for five years.
- f. Prior to commencing construction activities on the site, the applicant shall temporarily mark ~~s~~Sensitive ~~a~~Areas Tract(s) in a highly visible manner, and these areas must remain so marked until all development proposal activities in the vicinity of the sensitive areas are completed.
- g. Prior to final approval of construction activities on the site, the boundary between the sensitive area Tract(s) and adjacent land shall be identified using permanent signs. Sign specifications shall be shown on final engineering plans and shall be installed every 50 feet or as deemed appropriate by ~~e~~County staff at the time of engineering review.
- h. During engineering plat review the ~~a~~Applicant shall provide a wetland hydrology analysis to demonstrate how the wetland hydrology will be maintained post-construction.
- i. Detention out-fall structures maybe permitted within the wetland buffers, however, structures shall be located in the outer edge of the buffer, if possible. All buffer impacts shall be mitigated.
- k. The current access driveway is within the on-site wetland buffer. During plat construction this access shall be removed from the buffer and replanted. A buffer enhancement plan shall be required during engineering review.
- l. During engineering review, the plan set shall be routed to the sensitive areas group to determine if the above conditions have been met.

- m. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

—The following ~~have condition has~~ been established ~~under by~~ SEPA ~~authority~~ as necessary requirements to mitigate the adverse environmental impacts of this development. The applicants shall demonstrate compliance with these items prior to final approval.

- n. A four-foot tall split rail wood fence shall be constructed along the edge of the sensitive area tract (Tract A). Fencing details, construction and location shall be shown on the engineering plans for DDES review and approval. This mitigation is intended to reduce disturbance within the protective buffer and associated wetland.

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13. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.). The ~~a~~Applicant proposes to provide a combined recreation and drainage tract. A minimum of 4, 290 square feet of space shall be allocated to the recreation use within the combined tract.

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- a. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location,

area calculations, dimensions, final grade, landscaping in accordance with KCC 21A.16 and other general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.

- b. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
 - c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
14. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
15. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
- ~~_____~~ a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - ~~_____~~ b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - ~~_____~~ c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - ~~_____~~ d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - ~~_____~~ e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - ~~_____~~ f. The ~~a~~Applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - ~~_____~~ g. The ~~A~~applicant shall contact Metro Service Planning (684-1622) or Pierce County transit to determine if 28th Avenue South is on a bus route. ~~If~~ it is a bus

route, the street tree plan shall also be reviewed by either Metro or Pierce County Transit.

- h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
- i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

- 16. The drainage engineering plans ~~and~~for construction of the drainage outfall to Lake Killarney shall be reviewed by the DDES Shoreline planner prior to the final engineering plan approval. If construction of the drainage outfall to Lake Killarney requires additional shoreline permits, then the appropriate shoreline permits shall be obtained prior to the final engineering plan approval.

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ORDERED this 16th day of June, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 16th day of June, 2004, to the parties and interested persons of record:

<u>Bonnie I. Anderson</u>	<u>Martha & Katie Anderson</u>	<u>Deb Barker</u>
<u>Linda Bullard</u>	<u>Julie Cardenas</u>	<u>Steven & Leslie Carman</u>
<u>Joseph J. Chant</u>	<u>Dianne K. Conway</u>	<u>Gerald & Joan Cruz</u>
<u>Dennis Dunn</u>	<u>B. Ellis</u>	<u>Ed Fijalka & Teri Radick</u>
<u>Leonard J. Gantz</u>	<u>Dee Gordon</u>	<u>Stephanie & Les Greer</u>
<u>Jeanela Haffner</u>	<u>Geoffrey & Susan Hastings</u>	<u>Patrick Hicks</u>
<u>Mark & Anne Horn</u>	<u>John & Jacqueline</u>	<u>C. Paul Des Jardin</u>
<u>Jeffery S. Jones</u>	<u>Samuel & Kristin Jones</u>	<u>Karen Jorgensen</u>
<u>Carol Kasper</u>	<u>Steve Kester</u>	<u>Rene Lambion</u>
<u>Mary Lukens</u>	<u>Jodd Mathews</u>	<u>Laura & Todd Mathews</u>
<u>Lori Michaelson</u>	<u>Carol Milholland</u>	<u>Paul & Fran Morris</u>
<u>Patricia Mail & Peggy Kopf</u>	<u>Joan Patrick</u>	<u>Richard Reece</u>
<u>Craig & Nancy Rice</u>	<u>Patricia Richardson</u>	<u>Seattle KC Health Dept.</u>
<u>Karen Smith</u>	<u>Dennis & Susan Stroh</u>	<u>Kevin & Cindy Summerfield</u>
<u>Mr. & Mrs. Thacker</u>	<u>Junior V. Tran</u>	<u>Walter & Joann Turner</u>

<u>Kelly Wentzel</u>	<u>Alex White</u>	<u>Debbie & Chris Wolf</u>
<u>Blake Zumwalt</u>	<u>Greg Borba</u>	<u>John Briggs</u>
<u>Kim Claussen</u>	<u>Fereshteh Dehkordi</u>	<u>Steve Foley</u>
<u>Nick Gillen</u>	<u>Kristen Langley</u>	<u>Kate Rhoads</u>
<u>Carol Rogers</u>	<u>Steve Townsend</u>	<u>Larry West</u>
<u>Bruce Whittaker</u>		

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In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before ~~June 30e~~, 2004*. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before ~~July 7~~, 2004*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JUNE 8, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L03P0008.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Fereshteh Dehkordi, Bruce Whittaker, Kristin Langley, Nick Gillen and Kate Rhoads, representing the Department; and Alex White and Leonard Gantz, representing the Applicant; and Bonnie Anderson and Paul Morris.

The following Exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services File No. L03P0008.
Exhibit No. 2	Department of Development and Environmental Services Preliminary report, dated June 8, 2004.
Exhibit No. 3	Application filed April 16, 2003
Exhibit No. 4	SEPA Environmental Checklist dated March 19, 2003
Exhibit No. 5	SEPA Mitigated Declaration of Non-significance issued February 6, 2004
Exhibit No. 6	Affidavit of Posting indicating a posting date of May 26, 2003 and receipt by DDES on May 28, 2003

- Exhibit No. 7 Revised site plan received December 22, 2003
- Exhibit No. 8 Revised Conceptual Drainage plan received December 22, 2003
- Exhibit No. 9 Assessors Maps NE 28-21-04 and SE 21-21-04
- Exhibit No. 10 Wetland Assessment report dated July 10, 2003
- Exhibit No. 11 Addendum to the Wetland Report dated September 15, 2003
- Exhibit No. 12 Level-One Drainage Analysis received April 16, 2003
- Exhibit No. 13 Revised Level-One Drainage Analysis received October 23, 2003
- Exhibit No. 14 Revised Level-One Drainage Analysis report received December 22, 2003
- Exhibit No. 15 Certificate of Transportation Concurrency dated May 20, 2004
- Exhibit No. 16 Shoreline Exemption approval dated December 16, 2003, KC File L03SX108
- Exhibit No. 17 Complete text of Condition no. 6.e.
- Exhibit No. 18 Letter from City of Federal Way withdrawing their SEPA appeal, dated May 21, 2004

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